Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term 1976

Number 76-66

PAT HALL
and
BOBBY JAMES LAWSON
Petitioners

-vs-

STATE OF GEORGIA
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF GEORGIA

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PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF GEORGIA

The Petitioners herein pray that a Writ of Certiorari issue to review the judgment of the Georgia Supreme Court entered in the above-entitled case on April 20, 1976.

OPINION BELOW

A copy of the opinion of the Georgia Supreme Court is annexed hereto as an appendix to this Petition.

The opinion of the Georgia Supreme Court affirmed the convictions of the Petitioners for Communicating Gambling Information in violation of Ga. Code § 26-2706.

JURISDICTION

The judgment of the Georgia Supreme Court was entered on April 20, 1976. Jurisdiction of this Court is invoked under 28 U.S.C. § 1257.

QUESTION PRESENTED FOR REVIEW

Does the failure of Georgia's wiretap law (Ga. Laws 1968, pp. 1249, 1328; 1972 pp. 615, 952, 953) to conform substantially to the federal wiretap law (18 U.S.C. § 2510-2520), invalidate any electronic surveillance conducted thereunder, thus rendering Georgia's wiretap law facially deficient?

CONSTITUTIONAL PROVISION INVOLVED

AMENDMENT IV

The right of the people to be secure in their persons, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE CASE

The Petitioners were arrested and charged with the felony of Communicating Gambling Information.

The Petitioners made a Motion to Suppress based, inter alia, on the unconstitutionality of the Georgia Wiretap Law. That Motion was denied.

At the Petitioners' trial, evidence obtained from the wiretap was admitted over objection. The Petitioners were convicted and each sentenced to five (5) years in

prison, together with a five thousand dollar ($5,000.00) fine.

Because the issue involved the constitutionality of a Georgia law, appeal was taken directly to the Georgia Supreme Court. The Court affirmed, and denied application for rehearing on May 4, 1976.

THE GEORGIA WIRETAP LAW IS FACIALLY INSUFFICIENT AND HENCE PROVIDES NO LEGITIMATION FOR ANY WIRETAP.

The law which the Petitioners challenge is the Georgia Wiretap Law (as amended), Ga. Laws 1968, pp. 1249, 1328; 1972 pp. 615, 952, 953. For convenience, that law is referred to hereinafter as codified: Ga. Code § 26-3004.

PRE-EMPTION

In passing 18 U.S.C. §§ 2510-2520, Congress pre-empted the area of wiretapping. Title 18 U.S.C. § 2516 (2) provides that states may pass eavesdropping laws, but the legislative history requires them to be in substantial compliance with the federal law.

> "No authorization may be permitted unless a specific state statute permits it. The state statute must meet the minimum standards reflected as a whole in the proposed chapter. The proposed provision envisions that states would be free to adopt more restrictive legislation, or no legislation at all, but not less restrictive legislation . . . ."
>
> Senate Report No. 1097, U.S. Code Cong. & Adm. News, p. 2187 (1968).

Superficially, the Georgia law appears substantially to conform to Title III. However, read more carefully, and compared with the federal law, the cases, and the Fourth Amendment, it is deficient.

While there are several areas of variation, four are of substance.

1) *Other Investigative Techniques.*

Title 18 U.S.C. § 2518 (1) (c) requires:

> "*A full and complete* statement as to whether or not other investigative procedures have been tried and failed or why they *reasonably appear to be unlikely to succeed* if tried or *to be too dangerous.*" [Emphasis added].

The Georgia law requires that a wiretap be undertaken only on probable cause. It also requires exigencies which "override the need for giving of notice of the surveillance to the parties to be overheard . . . ." Ga. Code § 26-3004 (d).

What it does not do is to require a finding that the *tap itself* is necessary. There is nothing whatever in the Georgia law to forbid a policeman with minimal probable cause to conduct his investigation solely by wiretap.

The entire rationale behind Title III is that wiretapping contains such potential for abuse that its use must be permitted only where absolutely necessary. As Mr. Justice Clark stated in one of the landmark cases in the area, *Berger v. New York,* 388 U.S. 41, 63 (1967):

> "Few threats to liberty exist which are greater than that posed by the use of eavesdropping devices."

Except for a preliminary finding of "probable cause," however, the Georgia law permits the use of wiretap as the initial step in an investigation, and requires no justification for using this extreme step instead of conventional techniques.

2) *Previous Applications.*

Title 18 U.S.C. § 2510 (1)(e) requires:

> "A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept . . . communications involving any of the same persons . . . specified in the application . . . . "

The importance of this requirement is set out in the next paragraph. However, there is no similar requirement in the Georgia law.

The reason for this requirement is to insure full disclosure by the police. Since telephone communications often involve several distinct (e.g., county and county) or overlapping (e.g., federal and state) jurisdictions, there often exist many judges from whom an application could be sought. Under the federal law, a magistrate has to know about earlier orders of authorization or of denial. The Georgia law, however, permits a sort of "magistrate shopping," whereby an applicant can continue applying until he finds a friendly judge. He does not have to make known to him earlier attempts by the applicant or his colleagues to obtain permission to tap. Nor does he have to make known the existence of earlier wiretaps.

While this does not create the "lie to the issuing magistrate" condemned in *United States v. Thomas,* 489 F. 2d 664 (5th Cir. 1973), it does permit a less than candid application.

In short, the Georgia law allows the police to make continued applications, and have a chance of obtaining an order of authorization from a magistrate not fully aware of all surrounding circumstances.

3) *Other Offenses.*

Title 18 U.S.C. § 2517 (5) provides:

"That when an investigative or law enforcement officer, while engaged in intercepting wire or oral communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom . . . may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on *subsequent application* that the contents were otherwise intercepted in accordance with this chapter." [Emphasis added].

Subsection (2) permits the use of intercepted conversations in court proceedings.

The Georgia law is explicitly contrary to the federal law in this respect. It provides that when an officer conducting a tap obtains information of other crimes, that evidence "may be disclosed or used in the same manner as if a surveillance warrant covering said crimes had initially been used." Ga. Code § 26-3004 (g).

This situation, like (2) above, provides the police with too much power. They are able to wiretap, and use the evidence obtained almost indiscriminately. In particular, they do not have to go back before a magistrate to show that the wiretap was made in good faith, that the second crime was not actually the target initially, and again, in short, that the magistrate was not misled

4) *Notice.*

Title 18 U.S.C. § 2518 (8)(d) requires that:

"Not later than ninety days after the filing of an application for [a wiretap] which is denied or the termination of the period of an order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application . . . an inventory which shall include notice of (1) the fact of the entry of the order or the aplication; (2) the date of entry and the period of authorized, approved or disapproved interception, or the denial of the application; and (3) the fact that during the period wire or oral communications were or were not intercepted."

The Georgia law (Ga. Code § 26-3004(5) does not require any prompt notice. A person who is *indicted* or *accused* is to be notified by the solicitor general that his conversations have been intercepted. This procedure leaves room for very great and improper invasions of privacy.

First of all, a person may not be indicted for a year or more after the tap. Yet the Georgia law allows the interception to be used against him, even though he is unaware of its existence until after indictment.

A corollary to the above is that a person who is not indicted may *never* be aware that his privacy has been invaded.

Finally, a person against whom an application is made and denied has no right to notice under the Georgia law.

The Congress felt that an invasion or attempted invasion of a person's privacy is of such importance that he is entitled to know about it. The Georgia legislature, however, did not enact similar safeguards in its law.

EFFECT OF THE GEORGIA LAW

The variance between the Georgia law and the federal law is subtle, but very real. The federal law was passed largely in response to three decisions of this Court: *Berger v. New York,* supra; *Katz v. United States,* 389 U.S. 347 (1967); and *Osborn v. United States,* 385 U.S. 323 (1966). These cases, in turn, hinged on the Fourth Amendment.

The great flaw in Georgia's statute is that it provides the police with too much possibility for abuse of the very powerful, but potentially very dangerous, use of wiretaps.

It is hard to summarize the entire thrust of this Brief in one line. However, Mr. Justice Brennan's language, although in the context of arrests rather than searches, comes very close. His warning is "that it is imperative that the delibrate, impartial judgment of a judicial officer . . . be interposed between the citizen and the police . . . . " *Wong Sun v. United States,* 371 U.S. 471 481-482 (1963).

CONCLUSION

Your Petitioners believe that the Georgia wiretap law is illegal. Accordingly, it is prayed that this Court will grant a Writ of Certiorari so that they can present further authority in support of their proposition.

Respectfully submitted,

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APPENDIX A

Supreme Court of Georgia Decided: Apr. 20, 1976

30939. LAWSON et al. v. THE STATE

UNDERCOFLER, Presiding Justice.

Appellants were convicted in a non-jury trial on two counts of communicating gambling information. Each appellant was sentenced to two five-years terms to run concurrently. Certain evidence was obtained under a telephone intercept order. This appeal asserts that the trial court erred in refusing to suppress all evidence derived from the telephone intercept order, the admission of certain evidence, and the denial of appellants' motions for directed verdicts. The appeal attacks also the constitutionality of Ga. L. 1968, pp. 1249, 1328 as amended, Ga. L. 1972, p. 615, and Ga. L. 1972, pp. 952, 953 (Code Ann. §26-3004) because it fails to meet the requirements set out by the United States Congress in 18 USC §§ 2510-2520.

The telephone intercept order was issued on September 23, 1974, by a judge of the superior court upon the affidavit of an agent of the Georgia Bureau of Investigation. The order authorized the interception of communications over two telephones for a 20 day period. The wiretap began on September 24, 1974, and terminated on September 26, 1974. Thereafter the judge issued two search warrants based upon the intercepted communications. HELD:

1. Appeallants contend the intercepted communications should have been suppressed because the State failed to comply with the "necessity" requirements of

18 USC § 2518 (1) (c) and § 2518 (3) (c). These sections provide respectively that an application for an order authorizing a telephone interception shall include, "a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous," and, "normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous." Appellants argue that the statements in the GBI agent's affidavit as to necessity are stereotyped recitals and fail to satisfy the statute. *We do not agree.* The affidavit shows in detail a physical surveillance of the purported gambling establishment and of the defendants over a period of two weeks prior to the issuance of the telephone intercept order. The affiant shows from prior experience that the full extent of an illegal gambling operation as here, and the individuals involvement therein cannot be obtained by normal investigative techniques. In our opinion the trial court was authorized to rely upon these representations. As stated in *United States v. Robertson,* 504 F2d 289, 293 (3), "We first note that §§ 2518 (1)(c) and (3)(c) must be read in a common sense fashion. They are 'simply designed to assure that wiretapping is not resorted to in situations where traditional investigative techniques would suffice to expose the crime.' *United States v. Kahn,* 1974, 415 U. S. 143, 153 n. 12, 94 SC 977, 983 n. 12, 39 LE2d 225, 236 n. 12. Their purpose 'is not to foreclose electronic surveillance until every other imaginable method of investigation has been unsuccessfully attempted, but simply to inform the issuing judge of the difficulties involved in the use

of conventional techniques.' *United States v. Pacheco,* 5th Cir. 1974, 489 F2d 554. The provisions contemplate that 'the showing be tested in a practical and commonsense fashion.' "

2. Appellants contend there was an unauthorized publication and disclosure of the contents of the communications obtained under the intercept order. It argues that duplicated tapes of the intercept conversations were made in apparent disregard of the judge's order that such communications and the tapes thereof were to be kept confidential and delivered to the clerk of the court. We find no error. The record shows that the judge who issued the telephone intercept order approved the making of duplicate tapes and transcripts thereof in order to comply with Federal and State laws. See 18 USC § 2517 (1) and (2). The duplicate tapes were given to a secretary to transcribe. The duplicate tapes were then erased and the tapes delivered to the judge who issued the intercept order. The judge kept them in his personal possession until the hearing on the motion to suppress when they were delivered to the district attorney.

3. In our opinion the evidence shows that the officers conducting the telephone interceptions did so in such a way as to minimize the interception of communications not subject to the order. The record shows the interceptions were terminated on a number of personal and nonrelevant conversations. The interceptions were authorized for a 20 day period, however, they were terminated after two days.

4. The failure to advise the judge issuing the telephone intercept order of a previous interception in

October 1973 was harmless. The judge was informed of previous telephone intercepts but not specifically this particular one.

5. We find no merit in appellants' contentions that the affidavit in support of the issuance of the telephone intercept order contained false material representations. These contentions involve the credibility of witnesses and the decision of the trial judge will not be reversed.

6. Appellants content that Code Ann. § 26-3004 is unconstitutional because it does not meet the minimum standards of Title III of the Omnibus Crime Control Act of 1968 (18 USC § 2510, et seq.). Appellants argue that Code Ann. § 26-3004 omits the provision of 18 USC § 2518 (6) which states: "Whenever an order authorizing interception is entered pursuant to this chapter the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require." This provision is discretionary and not mandatory. The fact that it is not included in the Georgia statute does not render it unconstitutional or in conflict with the federal provision.

7. Appellants have no standing to challenge the Georgia statute because it does not provide that the application for an intercept order contain a statement as to the period of time the interception is required to be maintained, that it must not be longer than necessary to achieve the objective, that other investigative procedures have failed, that the judge make a

finding that other investigative procedures have failed, and require that the person named in the intercept order be given reasonable notice thereof after the surveillance. All of these requirements were complied with and the appellants show no harm.

8. The trial court did not err in denying appellants' motion for directed verdicts.

9. Evidence that a particular phone was registered to one of the appellants was admissible. Code Ann. § 38-711.

10. During the hearing on the motion to suppress appellant Hall admitted to being a lottery operator. She claims this testimony was necessary to support her motion to suppress. During the trial upon motion by the district attorney the court took judicial notice of her testimony that she was involved in lottery operations. Appellant Hall complains that this is a violation of her Fourth Amendment rights. See *Simmons v. United States*, 390 U. S. 377 (SC , LE2d) (1968). This case was tried by the judge without a jury and the judge had already heard the admission when hearing the motion to surpress. Assuming but not deciding that appellant Hall's Fourth Amendment rights were violated a review of the record convinces us that any such violation was harmless beyond a reasonable doubt.

Judgment affirmed. All the Justices concur.

CERTIFICATE OF SERVICE

This is to certify that three copies of the foregoing Petition for a Writ of Certiorari to the Georgia Supreme Court were mailed to:

Hon. Arthur K. Bolton
Attorney General
132 State Judicial Building
40 Capitol Square
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and

Hon. Ben J. Miller
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with sufficient postage thereon to insure delivery by first class mail.

This 14th day of July, 1976.

/s/ HERBERT SHAFER
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Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE GEORGIA SUPREME COURT

BRIEF FOR THE RESPONDENT IN OPPOSITION

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BRIEF FOR THE RESPONDENT IN OPPOSITION

QUESTION PRESENTED

Is the Georgia court-authorized wiretap statute, Ga. Code Ann. § 26-3004, which was enacted prior to the enactment of its Federal counterpart, 18 U.S.C. §§ 2510-2520, and which does not contain some of the requirements of the Federal statute, unconstitutional when the Georgia Supreme Court has consistently held that the provisions of the Federal wiretap statute are controlling and when in Petitioners' case, all of the requirements of the Federal statute were substantially complied with?

STATEMENT OF THE CASE

Petitioners Lawson and Hall were convicted in a non-jury trial in the Fayette County Superior Court, Georgia, of two counts of communicating gambling information. Each Petitioner was sentenced to two five-year terms, with the sentences to run concurrently.

Petitioners appealed to the Georgia Supreme Court and alleged that the Georgia wiretap statute, Ga. Code Ann. § 26-3004, was unconstitutional. In a unanimous decision, the Georgia Supreme Court affirmed the conviction on April 20, 1976, and denied rehearing on May 4, 1976. See Lawson v. State, 236 Ga. 770, ____ S.E. 2d ____ (1976).

REASONS FOR DENYING THE WRIT

A. PETITIONERS HAVE NO STANDING TO CHALLENGE THE GEORGIA WIRETAP STATUTE.

In their brief, Petitioners allege the Georgia wiretap statute is unconstitutional because it allegedly (1) requires no full statement as to why alternative procedures cannot be used, (2) requires no full statement concerning previous applications for the wiretap, (3) allows law enforcement officers to use derivative evidence without subsequent judicial authorization, and (4) does not require prompt notice to persons named in the court order that they have been subject to a wiretap.

Petitioners have not alleged that any of these alleged erroneous practices took place in their case or that the statute was unconstitutionally applied to them. Therefore, Petitioners have no standing to challenge the Georgia statute. "[A] person to whom a statute may constitutionally be applied will not be heard to challenge

that statute on the ground that it may conceivably be applied unconstitutionally to others, in other situations not before the Court." Broderick v. Oklahoma, 413 U.S. 601, 610 (1973).

B. PETITIONERS HAVE ALLEGED NO HARM BY THE INTRODUCTION OF EVIDENCE OBTAINED IN THE WIRETAP.

In their brief, Petitioners state, "The great flaw in Georgia's statute is that it provides the police with too much possibility [emphasis added] for abuse . . . of wiretaps." (Petitioners' Brief p. 8). Nowhere in their brief do Petitioners allege any abuse that occurred or what harm, if any, they suffered by the introduction of evidence obtained in the wiretap. Even if the evidence were illegally admitted, harm as well as error is required before reversal would be mandated. Schneble v. Florida, 405 U.S. 427 (1972); Harrington v. California, 395 U.S. 250 (1969).

C. GEORGIA COURTS HOLD THAT THE FEDERAL STATUTE IS THE CONTROLLING STATUTE AND THE FEDERAL STATUTE WAS COMPLIED WITH IN THIS CASE.

Respondent frankly concedes that in a number of respects the Georgia statute governing court-authorized wiretaps does not track the provisions of Title III, Omnibus Crime Control and Safe Streets Act of 1968, P.L. 90-351, 82 Stat. 211-225, Chapter 119 of Title 18, United States Code (hereinafter referred to as "Title III" for brevity). However, there is a logical reason why it does not. The General Assembly of Georgia enacted, effective April 19, 1967 an Act entitled "Eavesdropping, Peeping Tom and Invasion of Privacy." See Georgia Laws 1967, pp. 844-852. The Act struck in its entirety former Georgia Code Chapter 26-20 and inserted Sections 26-2001 through 2011 in lieu thereof. In general, the Act made it a felony, among other prohibited eavesdropping acts, to intercept the contents of a message sent by telephone, telegraph, letter or other means of private communication. However, Section 26-2005 contained an exception as to law enforcement officers acting pursuant to court order in the investigation of certain enumerated crimes. Former Section 26-2005(c).

It should be noted that this statute was enacted prior to the enactment of Title III, which became effective more than a year later on June 19, 1968. Therefore, there was no effective way in which the Georgia General Assembly could conform its wiretapping exception for law enforcement officers to a proposed Federal statute not yet enacted or approved in final form.

The next year, on April 10, 1968, the Georgia General Assembly enacted an entirely new, revised and updated Criminal Code of Georgia, to become effective on July 1, 1969. Georgia Laws 1968, pp. 1249, 1328. As a part of this new Code, Section 26-2005, relating to court-authorized wiretapping, was reenacted verbatim as Section 26-3004. This re-codification also occurred prior to the effective date of Title III. This Section is the one under attack as being unconstitutional in the instant petition.

Certain minor amendments not pertinent to the issues here were enacted in 1972. Georgia Laws 1972, pp. 615, 952-953.

Generally, the Georgia statute's lack of conformity to certain parts of Title III consists of omissions of certain Federal requirements. For example, the Georgia statute does not require the interception

order to contain the minimization directions required by 18 U.S.C. 2518(5). However no portions of Ga. Code Ann. § 26-3004 are constitutionally repugnant to Title III.

The failure of the Georgia statute to closely conform to certain portions of Title III does not render it unconstitutional, however, because of the decisions of the Georgia Appellate Courts which apply the requirements of Title III to State wiretap investigations, applications and court orders.

In the first appeal arising from a court-authorized wiretap conducted under State law to reach the Supreme Court of Georgia, the order authorizing the wiretap and the renewal order failed to include the Federal provisions that they be executed as soon as practicable; failed to state whether interceptions should terminate when the described communication was first obtained; failed to direct that the interception be conducted in such a way as to minimize the interception of communications not otherwise subject to interception; and failed to direct that the interception must terminate upon attainment of the authorized objective. There are requirements of 18 U.S.C. 2518(4)(e) and (5) but are not required by Ga. Code Ann. § 26-3004. The Supreme Court of Georgia said in that case, Cross v. State, 225 Ga. 760, 767, 171 S.E. 2d 507 (1969), that the failure of the order to include the foregoing directions "requires a reversal of the verdicts of guilty and

judgments of convictions because of the failure of the court to exclude evidence thus illegally obtained in violation of those provisions of the Federal Act."

Cross, supra, a unanimous decision of the Georgia Supreme Court, which has not been modified, overruled or distinguished to date, shows conclusively that the highest court of the State of Georgia recognizes the controlling authority of Title III and will reverse state court convictions arising from wiretaps not obtained in full compliance with that Federal statute, even though Ga. Code Ann. § 26-3004 may not have exactly the same requirements.

More recent decisions of the Georgia Supreme Court also recognize the controlling effect of Title III in State-conducted wiretaps. In Granese v. State, 232 Ga. 193, 196, 206 S.E. 2d 26 (1974), that Court said, "Our Georgia statute is supplementary of the Federal statute." In Orkin v. State, 236 Ga. 176, 179, ____ S.E. 2d ____ (1976), the Georgia Supreme Court reiterated that the requirements of both federal and state law regarding wiretapping must be satisfied where applicable.

It is obvious that a state wiretapping statute does not have to literally rephrase the Federal statute. A Florida statute authorizing the Governor to authorize an initial application was held not to violate the Federal statute authorizing the "principal prosecuting attorney" to make application. United States v. Pacheco, 489 F. 2d 554, 562-63 (5th Cir. 1974), cert. denied, 421 U.S. 909 (1975); see 18 U.S.C. § 2516(2). The state statute may implement and supplement the Federal statute, as Georgia's has done. While there are differences between the Georgia statute and the Federal statute, these differences are not material; and the Georgia statute complies with the intent and substance of the Federal statute.

The record clearly shows that the requirements of the Federal statute were complied with in Petitioner's case.

(1) Though authorized for 20 days, the court-authorized interceptions were terminated after two days. Lawson v. State, supra at 772.

(2) Other investigative methods would have been futile. Lawson v. State at 771.

(3) Through service of the search warrants and affidavits detailing wiretapped conversations, Petitioners had actual notice five days after the termination of the wiretaps. Trial Transcript 354-359.

(4) The court was notified of prior wiretaps. Lawson v. State at 772; Trial Transcript 71.

The one provision of Title III not duplicated in the Georgia statute which was not complied with in this case was the discretionary authority of the Court to require progress reports, authorized by 18 U.S.C. 2518(6). However, a Federal Judge may dispense with progress reports entirely. United States v. Iannelli, 477 F. 2d 999 (3d Cir. 1973), aff'd, 420 U.S. 770 (1975); United States v. Falcone, 364 F. Supp. 877 (D. N.J. 1973), aff'd, 500 F. 2d 1401 (3d Cir. 1974). In Petitioners' case, even had the Superior Court Judge required progress reports, the voluntary termination of interceptions after two days would no doubt have preceded the first reporting date.

In summary, the Petitioners' telephones were wiretapped precisely as they would have been if it had been a federal investigation under authority of an interception order signed by a United States District Judge. Petitioners were deprived of none of the statutory or constitutional safeguards of Title III.

CONCLUSION

This Court should refuse to grant a writ of certiorari because no sufficient reasons for review have been set forth by Petitioners.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Richard L. Chambers, Attorney of Record for the respondent herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that in accordance with the rules of the Supreme Court of the United States, I have this day served three copies of the foregoing Brief for Respondent in Opposition upon the petitioners by depositing copies of same in the United States mail, with proper address and adequate postage thereon to:

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This 5th day of August, 1976.

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